SBCivil Writ Petition No.4519/1993

Smt.Anandita
v.
State of Rajasthan & Ors.

Date of Order :: 27th April, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ramandeep Singh, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. N.K.Vyas, for the respondents.

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The Rajasthan State Industrial Development and Investment Corporation Ltd. (RIICO) auctioned a plot measuring 1350 sq. mtrs. for installation of a weigh bridge at Boranada, Jodhpur on 5.7.1988. The bid submitted by the petitioner @ Rs.178/- per sq. mtr. being highest one was accepted by the Senior Regional Manager, RIICO, Jodhpur. Consequent thereto the petitioner deposited a sum of Rs.61,000/- on 6.7.1988. The Senior Regional Manager, RIICO, Jodhpur by a communication dated 20.9.1988 issued an allotment letter to the petitioner with an instruction to deposit the remaining amount i.e. of Rs.1,79,300/- within a period of 30 days from the date of issuance of the letter of allotment. The petitioner failed to deposit the sum referred above within the period prescribed, therefore, after giving notice dated 5.12.1988 the Senior Regional Manager, RIICO, Jodhpur by communication dated 6.2.1989 cancelled the allotment of plot made in favour of the petitioner for

installation of weigh bridge. After cancellation of allotment by communication dated 6.2.1989 the petitioner submitted an application dated 25.4.1989 to the respondent No.2 making a request to communicate her the actual amount due against her for the purpose of making allotment of plot. In pursuant to application dated 25.4.1989 the respondent No.2 by a communication dated 22.5.1989 provided necessary details with regard to amount due with an instruction to deposit the amount due i.e. of Rs.2,02,022/- within a period of ten days. The due amount of Rs.2,02,022/- was determined by the respondent No.2 by adding interest of Rs.22,680/- with economic rent of Rs.42/-.

In spite of the communication dated 22.5.1989 the amount due was not deposited by the petitioner with the respondents within the period prescribed, however, in the month of June, 1989 she tendered two cheques dated 8.6.1989 and 10.7.1989 for the amount of Rs.1,00,000/- and Rs.79,300/- respectively. It is pertinent to note here that the amount referred above was not tendered to the respondents within a period of ten days as prescribed under the communication dated 22.5.1989. The respondent Corporation did not choose to encash the cheque pertaining to Rs.79,300/-, however, the sum of Rs.1,00,000/- was encashed by getting the cheque dated 8.6.1989 deposited with its account. This amount too was returned by the RIICO to the petitioner through a cheque dated 30.8.1989. The

cheque dated 30.8.1989 which was received by the petitioner on 5.9.1989 was again returned to the RIICO on 11.9.1989. The petitioner thereafter served a notice for demand of justice upon the respondent corporation through her counsel making a claim to allot the plot concerned to her and to execute the lease deed in this regard. In response to the notice dated 19.9.1990 the Senior Regional Manager, RIICO, Jodhpur informed the petitioner that allotment of plot made in her favour has already been cancelled, therefore, no further action is desirable. Being aggrieved by the same, this petition for writ is preferred by the petitioner.

A reply to the writ petition has been filed on behalf of the respondent Corporation stating therein that the petitioner failed to deposit the sum of Rs.2,02,022/- as demanded under the communication dated 22.5.1989, therefore, the allotment of the plot was cancelled and, therefore, the writ petition deserves to be dismissed. The respondents also urged that at the first instance the petitioner was required to deposit a sum of Rs.1,79,300/- in pursuant to the letter of allotment dated 20.9.1988 but that amount was not deposited within the period prescribed, however, in interest of justice an opportunity was given to her by communication dated 6.2.1989 to deposit the amount with interest within a period of ten days. The petitioner failed to avail the given

opportunity and, therefore, the allotment of land was rightly cancelled.

In rejoinder, while substantiating the claim, it is urged by counsel for the petitioner that the authorities of the RIICO were not at all interested in finalising allotment of land to the petitioner and, therefore, they erroneously added interest on the actual cost of land.

Before proceeding further, it is also worthwhile to note that during pendency of the writ petition the respondent Corporation also made efforts to resolve the controversy by making allotment of alternative land to the petitioner as it appears from the documents Anx.R/5, R/6 and R/7. The petitioner did not accept the offer made to her, therefore, the subsequent efforts made by the respondents were not materlised. The respondent Corporation even after commencement of hearing of the case also made certain efforts, details of that is given in additional affidavit sworn in by Shri J.K.Gupta, Senior Regional Manager, RIICO, Boranada, Jodhpur for making allotment of plot to the petitioner but the petitioner did not choose to accept the alternative land. Counsel for the respondents in quite unambiguous terms stated at Bar that the plot which was allotted to the petitioner in the year 1988 is not at all now available for allotment as the original plan has been revised.

Heard counsel for the parties.

The first contention of counsel for the petitioner is that the respondents were never interested in materlising allotment of plot to the petitioner and, therefore, an interest of Rs.22,680/- was erroneously included with the development fee of Rs.1,79,300/- under the communication dated 22.5.1989. The petitioner deposited the actual development fee i.e. of Rs.1,79,300/- with the respondents and the respondents accepted the same, therefore, it was not at all open for the respondents to cancel the allotment of land in favour of the petitioner.

I do not find any merit in the contention raised by counsel for the petitioner. From the facts stated above, it is quite clear that the letter of allotment was issued on 20.9.1988 and according to that the petitioner was required to deposit a sum of Rs.1,79,300/- within a period of 30 days. The petitioner failed to do so, therefore, by communication dated 6.2.1989 the allotment of land made in favour of the petitioner was cancelled. The respondent Corporation on request of the petitioner despite cancellation of plot further allowed an opportunity to the petitioner under a communication dated 22.5.1989 to deposit the due amount with interest within a period of ten days. The petitioner

failed to deposit the amount aforesaid within the period prescribed, as such the allotment was rightly cancelled.

The contention of the petitioner that the sum of Rs.1,00,000/- was accepted and encashed by the respondents, therefore, the presumption is that they extended the time limit for depositing the amount and, therefore, the entire action for allotment of land is required to be completed, is also of no consequence. By communication dated 22.5.1989 the respondents demanded a sum of Rs.2,02,022/- from the petitioner and that amount was required to be deposited within a period of ten days. The petitioner submitted a cheque dated 8.6.1989 for an amount of Rs.1,00,000/- i.e. after a lapse of the period prescribed under the communication dated 22.5.1989. The amount received through the cheque dated 8.6.1989 was also returned by the Bank to the petitioner on 30.8.1989. Beside the above, it is the position admitted that the petitioner never deposited the amount claimed by the Corporation i.e. in a tune of Rs.2,02,022/-. In view of this factual background, it is apparent that the petitioner never completed her obligation and, therefore, the respondent Corporation rightly cancelled the allotment made in her favour.

As stated above, even during pendency of this petition for writ the respondent Corporation made

numerous efforts for allotment of alternative land to the petitioner but the petitioner never cooperated in this regard to the Corporation, therefore, it also reveals from her conduct that she is not interested in getting the land but want to keep her claimed right alive.

The petition for writ, therefore, is having no merit and the same is hereby dismissed.

(GOVIND MATHUR),J.

kkm/ps.